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UNCLAS SECTION 01 OF 02 BELGRADE 001092

SENSITIVE  
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SIPDIS  
DEPT FOR EUR/SCE (P. PETERSON)  
DOJ FOR CARL ALEXANDRE

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TAGS: PREL PGOV KAWC SR

SUBJECT: SERBIA: ACQUITTAL IN DEATHS OF AMERICAN CITIZEN BYTYQI  
BROTHERS

REF: A) BELGRADE 934, B) 07 BELGRADE 309, C) 06 BELGRADE 1521

Summary

**11.** (SBU) On September 22, two Serbian police officers tried in the Serbian Special Court for War Crimes were acquitted of all charges related to the 1999 killings of three American citizens. The Presiding Judge explained that the prosecution's evidence did not support either the charge of deprivation of due process or the charge of psychological torture. The office of the War Crimes Prosecutor immediately said it intended to appeal the verdicts on the basis that witnesses had perjured themselves and concealed facts that would have convicted the defendants. In addition to pursuing an appeal, Serbian authorities must also identify and prosecute those responsible for the killings and change the prevailing "culture of silence" to enable crucial witnesses to testify. End Summary.

Police Acquitted of American Citizen Deaths

**12.** (U)On September 22, the Special Court for War Crimes acquitted Sreten Popovic and Milos Stojanovic of charges related to the deaths of three American citizen brothers, Agron, Ylli, and Mehmet Bytyqi in 1999 (reflets). The prosecution had argued that Popovic and Stojanovic illegally transferred the victims to the Petrovo Selo police training camp from a prison in Prokuplje, where they were being held for illegally crossing the border. The prosecution further argued that the victims were in fear for their lives after being transferred from prison suddenly and without explanation then held without food or water for days. We attended the reading of the verdict, during which Presiding Judge Vesko Krstajic explained the judges' findings on two charges - deprivation of the right to due process and psychological torture.

Judge: Evidence Does Not Support the Charges

¶3. (U) On the first charge of deprivation of due process, Judge Krstajic stated that the evidence showed the victims were prisoners of war and not entitled to due process. The indictment itself identified the Bytyqi brothers as members of the Atlantic Brigade of the Kosovo Liberation Army, who could be captured, detained, and held without entitlement to judicial process. He stated their detention was warranted since they had entered the country illegally and that police could reasonably investigate terrorist acts they planned to commit and their possible knowledge of other crimes.

¶4. (U) On the second charge of psychological torture, a charge added to the indictment late in the trial (Ref A), Krstajic explained that none of the defendants' actions constituted torture. Witnesses testified that the defendants, acting under orders, had identified themselves to the Bytyqi brothers and explained they were transferring them to another facility where other individuals from the Interior Ministry would pick them up. Witnesses also testified that the victims had been held in a warehouse with fresh air and running water and that they had received food and water occasionally.

Prosecutor's Office to Appeal

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¶5. (SBU) The office of the War Crimes Prosecutor issued a statement later the same day stating that it planned to file an appeal on the grounds that the defendants and witnesses had perjured themselves, concealing facts that would have led to a conviction. Vukcevic reiterated to us on September 11 before closing arguments that without assistance in breaking the police "wall of silence," investigations into other suspects, including those who ordered the Bytyqi brothers' deaths, were completely stalled. We continue to work with both the Prosecutor and the Interior Ministry's Internal Control Department who are investigating whether current ministry employees have perjured themselves or concealed information related to the killings that could aid the appeal or lead to breaks in the other investigations(Ref A). We have also emphasized to Interior Minister Dacic the importance of communicating to Interior employees their duty to report information on any crime and the need for their cooperation on this case in particular.

Comment

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¶6. (SBU) While we welcomed Vukcevic's decision to appeal the Popovic and Stojanovic acquittals, we have also urged him to continue and expand the ongoing, but stalled investigations of individuals higher up the chain of command. Our assistance may help to identify some of those individuals and to determine if current Interior Ministry employees are indeed concealing information about the perpetrators. Ultimately, it is up to the Serbian government to revitalize its efforts, break through the wall of silence, and bring all responsible for the Bytyqi brothers' deaths to justice. End Comment.

PEDERSON